

## **REMARKS**

### **I. Summary of the Office Action**

In the non-final office action mailed August 3, 2011, the Examiner rejected claims 74-80 under 35 U.S.C. § 101 as being directed to ineligible subject matter. Claims 41-80 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Pat. App. Pub. No. 2002/0046407 (Franco).

### **II. Status of Claims**

Now pending are claims 41-80, of which claims 41, 60, 65, 70, 74, 76 and 78 are independent and the remainder are dependent. Previously, Applicant cancelled claims 1-40.

In this response, Applicant has amended claims 41, 65, 70, 74, 76, and 78. These amendments are fully supported by the application as filed and specifically at least at ¶¶ 0080-0092 and 0180-0188 of the specification and at least Figure 3.

### **III. Response to the 35 U.S.C. § 101 Rejections of Claims 74-80**

As mentioned above, the Examiner rejected claims 74-80 under 35 U.S.C. § 101 as being directed to ineligible subject matter. Applicant submits that amended claims 74, 76, and 78 are directed to eligible subject matter, and that claims 75, 77, and 79 are also directed to eligible subject matter for at least the reason of their relative dependencies on claims 74, 76, and 78.

#### **a. Response to the § 101 Rejections of Claims 74 and 75**

Regarding claim 74, the Examiner stated that “[a]s claimed, the preamble [of claim 74] states the invention is directed to a system however, the body of the claims fail to support any

definitive hardware.” Office Action, p. 3. Applicant has amended claim 74 to recite use of a “client computer” and a “server”, both of which are described in Applicant’s specification on at least ¶¶ 0080-0092 with reference to Figure 3, which depicts hardware used by the client computer and the server.

Figure 3 is reproduced below for the Examiner’s convenience:

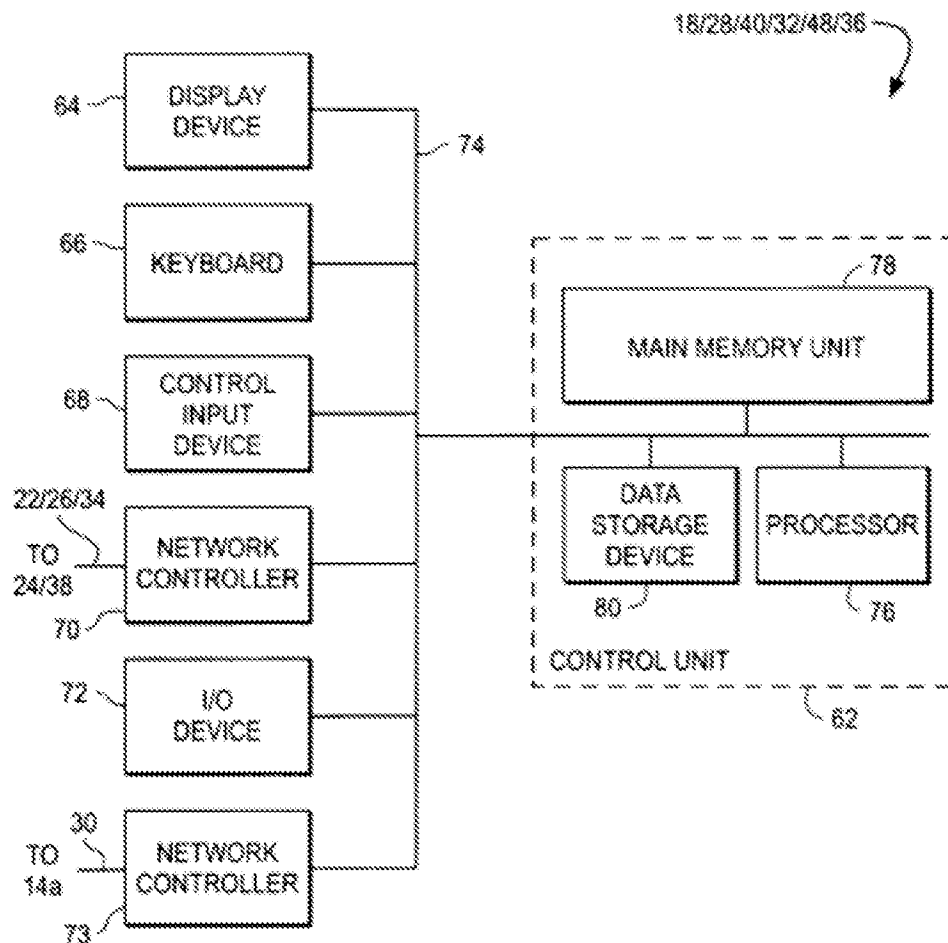


FIG. 3

For at least these reasons, Applicant submits that amended claim 74 is directed to eligible subject matter, and that claim 75 is directed to eligible subject matter for at the reason that it

depends from eligible claim 74. Applicant therefore respectfully requests the Examiner reconsider and withdraw the rejections of claims 74 and 75 under 35 U.S.C. § 101.

**b. Response to the § 101 Rejections of Claims 76-80**

Regarding claims 76 and 78, the Examiner stated that “claims 76-80 cite within the preamble that the computer readable medium stores, the office does not recognize such language as limiting the computer readable medium to solely statutory forms. It would be beneficial instead to clarify the computer readable medium both as storing and as being ‘non-transitory’...” Office Action, pp. 2-3.

In response, Applicant has amended claims 76 and 78 to recite use of “a non-transitory computer readable medium.” For at least these reasons, Applicant submits that amended claims 76 and 78 are directed to eligible subject matter, and that claims 77 and 79-80 are directed to eligible subject matter for at the reason that these claims respectively depend from eligible claims 76 and 78. Applicant therefore respectfully requests the Examiner reconsider and withdraw the rejections of claims 76-80 under 35 U.S.C. §101.

**IV. Response to the 35 U.S.C. § 102(e) Rejections of Claims 41-80**

The Examiner rejected claims 41-80 under 35 U.S.C. § 103(a) as being unpatentable over Franco.

**A. Franco Does Not Disclose or Suggest Use of a "First Website", "Command" and "Server" as Recited in Claim 41**

Applicant's amended claim 41 is directed to generating, sending, and processing a "command" that includes "generating a command at the first website...", "sending the command from the first website to a server", and "the server processing the command to program the

media-based device to record the broadcast program.” Applicant submits that at least these features are not disclosed by Franco.

**i. Summary of Franco**

Franco is directed to “a system that supports the remote programming of a content recording device through web pages.” Franco, ¶ 0003.

Franco depicts an “embodiment 100” as Figure 1, reproduced below for the Examiner’s convenience:

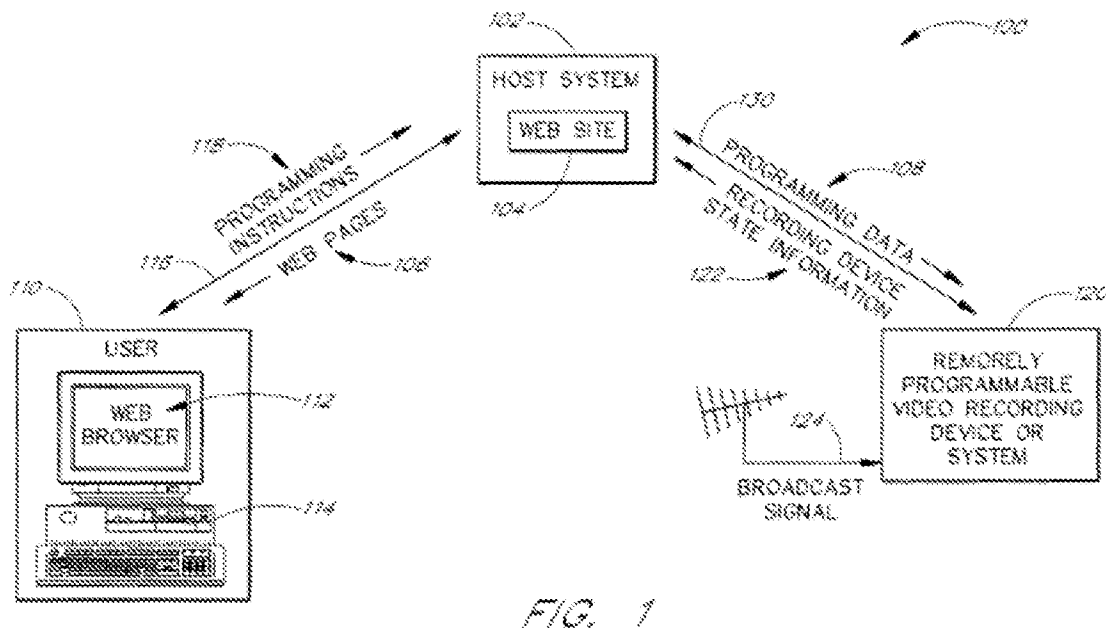


FIG. 1

Franco discloses that “user 110 accesses the web site 104 through a web browser 112 running on a user computer 114 capable of accessing and displaying web pages.... The user computer 114 is preferably connected to the host system 102 through a computer network 116 , such as the Internet. Franco, ¶ 0063.

Franco states that “host system 102 provides (serves) web pages 106 of the web site 104 to the user 110 through the computer network 116, the user computer 114, and the web browser

112. The user 110 provides programming instructions 118 to the host system 102 through the web browser 112, the user computer 114, and the computer network 116. The programming instructions 118 preferably identify one or more programs or content units that the user 110 has chosen to record.” Franco, ¶ 0064.

Franco then mentions that “host system 102 creates programming data 108 based upon the programming instructions 118 supplied by the user 110. The programming data 108 includes information sufficient to program the video recording system 120 to record broadcast content in accordance with the programming instructions 118 supplied by the user 110. The host system 102 transmits the programming data 108 to the video recording system 120 over a communication link 130.” Franco, ¶ 0065.

## **ii. Deficiencies in Franco**

As quoted above, Franco discloses that host system 102 “serve[s] web pages 106 of the web site”, “creates programming data 108 based upon the programming instructions 118 supplied by the user 110”, and “transmits the programming data 108 to the video recording system 120 over a communication link 130.” Franco, ¶¶ 0063-0065.

In contrast, claim 41 recites that a first website that “send[s] the command from the first website to a server” where the command “includ[es] the information for the broadcast program and information about the media-based device.” As also recited in claim 41, the server “process[es] the command to program the media-based device to record the broadcast program.” That is, while Franco discloses that one entity – the host system –creates the programming data and transmits the programming data to the video recording system, claim 41 recites use of two entities: a first website that “generat[es the] command” and “send[s] the command... to a

server”, and the server “process[es] the command to program the media-based device.

Thus, for at least these reasons, Franco does not disclose or suggest all of the features of amended claim 41. Claims 60, 65, 70, 74, 76 and 78 each recite the use of two entities as discussed above in the context of claim 41. As such, for at least the reasons presented for claim 41, Applicant submits that Franco does not disclose or suggest all of the features of claims 60, 65, 70, 74, 76 and 78 as well.

Further, Applicant submits that the revisions and comments directed above to the independent claims apply equally to claims 42-59, 61-64, 66-69, 71-73, 75, 77, 79, and 80 which depend directly or indirectly from claims 41, 60, 65, 70, 74, 76, and 78.

In view of the foregoing, Applicant respectfully requests reconsideration and withdrawal of the rejections of claims 41-80 under 35 U.S.C. § 102.

## **V. Conclusion**

In view of the foregoing, Applicant submits that all stated rejections have been addressed, and thus Applicant respectfully requests reconsideration and withdrawal of these rejections. The Examiner is invited to call the undersigned at (312) 913-3338 as needed to expedite prosecution of this application.

Respectfully submitted,

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Date: October 25, 2011

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